

ITEM NO. 9

CITY OF SANTA ROSA
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT FOR PLANNING COMMISSION
March 27, 2003

PROJECT NAME

Amendment of Zoning Code, Article 6

FILE NUMBER

ST01-012

PROJECT PLANNER

Maureen Rich

RECOMMENDATION

Approval

PROPOSAL

Amend Zoning Code, Article 6, Sections 20-03.111 through 20-03.119, Second Dwelling Unit to eliminate discretionary review and public hearing of second dwelling units, in favor of ministerial approval or denial and establish minimum development standards and review procedures for second dwelling units in Santa Rosa.

SUMMARY

This is the second Planning Commission report on the proposal to amend the second dwelling unit ordinance (Article 6, Sections 20-03.111 through 20-03.119).

The purpose of this report is to address the following questions raised by the Commission and/or the public:

1. Can the second dwelling unit ordinance include a statement that public policy may not override CC&R's?
2. What process will be used to deviate from the requirements of the code?
3. Can neighborhood notice be mailed to property owners adjacent to an approved second dwelling unit?
4. What response(s) does the City offer to questions raised by Donald Dakan, Dan Flock and Denise Hill?

The final draft of the proposed ordinance identifies in bold italics, those changes which have been made since the initial review on March 13, 2003.

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CITY OF SANTA ROSA PLANNING COMMISSION

TO: PLANNING COMMISSION
SUBJECT: SECOND DWELLING UNIT ORDINANCE
AGENDA ACTION: RECOMMENDATION FOR APPROVAL

ISSUE(S)

1. Should the Commission recommend to the City Council adoption of the Second Dwelling Unit ordinance as drafted?

HISTORICAL

On March 13, 2003, the Planning Commission opened and closed the public hearing for the proposed amendment of the Zoning Code, Article 6, Second Dwelling Unit. The item was continued in order to address specific questions raised by the public and the Planning Commission.

ANALYSIS

The following questions were presented at the March 13, 2003 Planning Commission meeting.

1. **Can the second dwelling unit ordinance include a statement that public policy may not override CC&R's?**

The following language has been included in Purpose - Section 20-03.111:

"It is not the intent of this ordinance to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions or similar provisions."

2. **What process will the City use to deviate from the requirements where non-conforming conditions may occur, e.g., historic districts?**

Exceptions to the requirements of the Zoning Code may be handled as either a variance or conditional use permit. A variance may not be used to authorize a use or activity that is not authorized by the zoning district regulations for the property. Variances and conditional use permits are discretionary actions that require Planning Commission review.

Variance example: If an existing garage, which doesn't meet setbacks, includes a proposed two story, second dwelling unit which won't meet setbacks, then the applicant would request a variance.

Conditional Use Permit: If a parking reduction is requested then the applicant would request a conditional use permit.

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3. **Should neighborhood notice be mailed to property owners adjacent to an approved second dwelling unit?**

Ministerial actions should not be noticed. Notice is not given for construction of a new, single family dwelling or a second story addition to a single family dwelling. Both of these examples are developments "by right" (ministerial actions) and the surrounding property owners are not notified.

Noticing a neighborhood of a "by-right" permit suggests that public comments are being solicited. This conflicts with the reason and intent of other City notices. Since the notice would likely result in public frustration, the benefit is questionable and not advised.

The spirit of the law is to eliminate the discretion of reviewing the proposed second dwelling unit. Any property owner is granted the right to develop their property with a second dwelling unit just as they could develop a single family residence. Mailing a notice to develop a second dwelling unit would be the same as mailing a notice regarding the construction of a single family dwelling.

4. **How does the City respond to the questions raised in letters submitted by Donald Dakan, Dan Flock and Denise Hill?**

- a. Can the Purpose - Section 20-03.111 refer to neighborhood (singular)?
Yes.
- b. Can Location - Section 20-03.113 also include sidewalks?
This is one of the options that was presented to the Planning Commission. See the March 13, 2003 report, page 5 - Option B.
- c. Can the height of a second dwelling unit be restricted so as not to exceed the height of the primary residence?
This is an option that the Planning Commission may consider; however, it would be more restrictive option than what is proposed and would have the net effect of decreasing the number of second dwelling units constructed. For example, fewer second story dwellings above existing garages would be possible where they might otherwise be appropriate. Staff recommends limiting the height of a second dwelling unit to 27 feet as proposed.
- d. Can second dwellings within historic districts be regulated?
The State Law includes a provision which allows a city to adopt standards to prevent adverse impacts on real property that is listed in the California Register of Historic Places. There are only 2 such listings in Santa Rosa, John Medica and Luther Burbank Gardens.

As drafted, the ordinance specifies that these listings, and the adjacent parcels, may not be developed with a second dwelling unit. Should the State amend the law to include properties listed on a National Register, then the City will amend their ordinance.

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An option that the Commission may wish to consider is a blanket restriction for historic districts as follows:

“A proposed second dwelling unit within any historic district of the City of Santa Rosa, shall not be visible from a public street or public area.”

- e. How does CEQA apply to the development of second dwelling units within historic districts?
The State is mandating that second dwelling units be considered ministerially. CEQA does not apply to ministerial actions.
- f. Can the occupancy of the second dwelling units be limited?
The City does not currently limit the number of people occupying a second dwelling unit. Furthermore it has not been an issue.
- g. Internal conversions should not exceed 30%.
The current ordinance allows for internal conversions up to 45% which may include additions. The proposed ordinance allows for internal conversions up to 45%, but excludes conversions. The Planning Commission may consider a more restrictive option.
- h. Can the required parking be excluded from setback areas?
No. State law requires that “off-street parking shall be permitted in setback area in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.”

The second dwelling unit will meet state health safety and fire codes. Access to the unit will be provided consistent with state and local codes.
- i. Can the Architectural Compatibility Section - 20-03.116(F) be modified to reference “compatible” dwellings on adjacent properties?
Yes, the change has been made.
- j. Should the second dwelling unit ordinance apply to condominium projects?
Yes. Unless otherwise superceded by CC&R’s, a second dwelling unit may be permitted if it meets all of the requirements and development standards as specified in the second dwelling unit ordinance.
- k. May the resident of a second dwelling unit have a home occupation?
Yes. Unless otherwise superceded by CC&R’s, a second dwelling unit may contain a home occupation if it meets all of the requirements as specified in Section 20-05.880 Home Occupations.
- l. General comments by the letter writer. *The spirit of the State Law is to allow second dwelling units, by right (as a ministerial action) when the adopted development standards and requirements are met.*
- m. The question did not list specific considerations.

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Attachments

- Planning Commission Report and attachments from March 13, 2003.
- Final Draft (Ordinance)
- Letters (3)
- Resolution

RECOMMENDATION

The Department of Community Development recommends that the Planning Commission recommend to the City Council adoption of the Second Dwelling Unit Ordinance as proposed.

ITEM NO. 11

CITY OF SANTA ROSA
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT FOR PLANNING COMMISSION
March 13, 2003

PROJECT NAME

Amendment of Zoning Code, Article 6,
Second Dwelling Unit,
Sections 20-03.111 through 20-03.119

FILE NUMBER

ST01-012

PROJECT PLANNER

Maureen Rich

RECOMMENDATION

Approval

PROPOSAL

Amend Zoning Code, Article 6, Sections 20-03.111 through 20-03.119, Second Dwelling Unit to eliminate discretionary review and public hearing of second dwelling units, in favor of ministerial approval or denial and establish minimum development standards and review procedures for second dwelling units in Santa Rosa.

SUMMARY

On September 29, 2002, the first major revision to the second dwelling unit statute (Government Code §65852.2) was signed into law by the Governor. In general, it states that after July 1, 2003, any second dwelling unit application must be considered through ministerial process, without discretionary review or hearing.

A ministerial action describes an objective decision with no public involvement and requires little, if any, personal, subjective judgement. A ministerial request is granted when it can meet all laws, ordinances, regulations, and statutes. Ministerial actions cannot be appealed.

Conversely, a discretionary action describes a review process that often involves public comment, a substantial level of subjective review and public hearing. Discretionary actions may be appealed.

The new law states that a city may, by ordinance, provide for the creation of second dwelling units. The ordinance may do any of the following:

- A) Designate areas where second units may be permitted which may be based on criteria, including but not limited to, the adequacy of water and sewer services and impact on traffic flow.
- B) Impose standards on second units, including but not limited to, parking, height, setbacks, lot coverage, architectural standards, maximum size and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.
- C) Provide that second dwelling units do not exceed the allowable density for the property and that the second unit is a residential use consistent with the General Plan designation and zoning.

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Under the new law, second dwelling units must be reviewed ministerially. Therefore, the ordinance must be written using criteria and measures that are objective in order to address the various physical conditions and scenarios.

Timing is critical for the adoption of this ordinance. If the ordinance is not in effect by July 1, 2003, then any application for a second dwelling unit, submitted on or after July 1, 2003, must be approved or disapproved ministerially without discretionary review or hearing based on the State's minimum requirements (see Government Code § 65852.2(b)).

The approach of this report is to analyze more and less permissive optional standards and the corresponding effects on the City of Santa Rosa.

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CITY OF SANTA ROSA PLANNING COMMISSION

TO: PLANNING COMMISSION
SUBJECT: SECOND DWELLING UNIT ORDINANCE
AGENDA ACTION: RECOMMENDATION FOR APPROVAL

ISSUE(S)

1. Should the Planning Commission recommend to the City Council adoption of the Second Dwelling Unit Ordinance as drafted?

BACKGROUND

1. Historical

In 1986, the City of Santa Rosa introduced Zoning Code §20.03.367 allowing for the development of second dwelling units through the Conditional Use Permit discretionary review process conducted by the Planning Commission.

In the mid 1990's, the State declared that second dwelling units provide a valuable form of housing for family members, students, senior citizens, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods. The intent of the State's declaration was to ease the discretionary review process through codification.

On September 29, 2002, the first major revision to the second dwelling unit statute, Government Code §65852.2, was signed into law by the Governor. The law states that any application for a second dwelling unit received after July 1, 2003, shall be considered by ministerial process, without discretionary review or hearing. The law identifies which standards a city may apply to the review of second dwelling units.

ANALYSIS

1. Project Description

By law, a local agency must adopt an ordinance that removes all discretionary review of a request for second dwelling unit. Aside from the removal of the discretionary review process, a proposed reduction in the height and changes in setbacks within a -PD District, the ordinance has remained very similar to the existing ordinance.

What follows is a section-by-section review of the new ordinance. New text is identified by italic print and text to be eliminated has been struck. A brief discussion follows each section as well as a discussion of the options (more permissive versus more restrictive) for the Planning Commission to consider that may either make it easier or more difficult to develop second dwelling units and staff's recommendation.

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Article 6 - Second Dwelling Unit

20-03.111 Purpose.

The purpose of this article is to *comply with amendments made in 2002, to State Law §65852.2 which provides for City's to set standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain dwelling units and rental housing units by allowing second dwelling units to be developed on certain lots which contain only a single-family dwelling and to establish design and development standards for second dwelling units to ensure that they are compatible with existing neighborhoods.*

Discussion: The purpose statement has been simplified. Reference to establishment of design standards has been eliminated since design is subjective and requires discretionary review.

Options: Not applicable.

Recommendation: Adopt the "Purpose" section as proposed.

20-03.112 Definitions.

(A) Second Dwelling Unit: Any residential dwelling unit which provides complete independent living facilities on the same parcel as a legal single family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling unit also includes efficiency units and manufactured homes. A second dwelling unit may be considered a residential use that is consistent with the existing general plan and zoning designation for the lot. Second dwelling units are not "accessory uses" as defined in Article 4.1 of Chapter 20-05. A second dwelling unit is a small but separate, complete housekeeping unit with kitchen, sleeping, and full bathroom facilities which is part of, an extension to, or on the same lot as a detached single family dwelling.

- (1) Efficiency Unit: A separate living space with a minimum floor area of 150 square feet intended for occupancy by no more than two persons which contains partial kitchen and bathroom facilities.*
- (2) Manufactured home: A transportable structure which in the traveling mode is 8 feet or more in width and 40 feet or more in length and is a minimum of 320 square feet and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation.*
- (3) Neighborhood: An area commonly identified as such in planning documents and among individuals who reside and work within close proximity.*

Discussion: State law requires that the definition of second dwelling unit include efficiency units and manufactured housing. There is no relief from this requirement and the proposed ordinance has been revised accordingly. The state's definitions, as found in Government Code §65852.2 (i) 1-4, has been used in the proposed ordinance.

Options: Not applicable.

Recommendation: Adopt the "Definitions" section as proposed.

20-03.113 Location.

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(A) ~~★ One second dwelling unit may be allowed located on any residentially zoned lot that principally allow single family dwellings and any lot whose zoning permits residential units and which is either undeveloped or contains only a legal single-family detached dwelling.~~

(B) Second dwelling units shall not be allowed where roadways, public utilities and services are inadequate.

(C) *Second dwelling units are not required to meet the density requirements of the General Plan, but shall otherwise be consistent with General Plan text and diagrams.*

(D) *No second dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.*

Discussion:

- (1) The existing code has been clarified. If the lot on which a second dwelling unit is to be located is already developed with a single family residence, which residence must be legal. It is not in the City's interest to allow for the construction of a second unit if the main unit is illegal.
- (2) The city may impose standards including, but not limited to, the adequacy of water and sewer and the impact of second dwelling units on traffic flow.
- (3) Under the State's law, second dwelling units may be required to meet General Plan density requirements. However, the City's policy has been to allow second dwelling units without General Plan density restriction.
- (4) The new law gives local agencies the ability to regulate second dwelling units when they could impact a historic property, as listed on the California Register of Historic Places. The City of Santa Rosa has two such listings, John Medica Gardens (#939) and Luther Burbank Gardens (#234). The proposed ordinance for second dwelling units eliminates the potential for construction of a second dwelling unit on these (and adjacent) properties.

Options:

- (A) None.
- (B) More permissive: Eliminate the requirement for adequate roadways. This could result in inadequate access to the second dwelling unit and result in a serious constraint to emergency service provisions.
More restrictive: Require that there be adequate roadways AND sidewalks.
- (C) More permissive: None.
More restrictive: Require that all second dwelling units meet the General Plan density requirement. The result of this option would be a significant reduction in the number of second dwelling units in the City.
- (D) More permissive: Eliminate the restriction on adjacent lots. Without adequate discretionary review, staff concludes that the permissive approach could result in a significant impact to a historic property. The more permissive approach is not recommended.
More restrictive: Consider increasing the distance of second dwellings to a historically listed property, imposing increased setback standards, or decreasing second dwelling unit height to single story maximum.

Recommendation: Adopt the "Location" section as proposed.

20.03.114 Conditional use permit. Permitting Procedures.

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Any application for second dwelling unit that meets the location and development standards, contained in this code, shall be approved ministerially without discretionary review or public hearing. A conditional use permit approved by the Planning Commission shall be required for all second dwelling units. Second dwelling units approved by conditional use permit prior to this amendment shall be considered legal nonconforming uses.

Discussion: New state law removes the discretionary review and hearing process. Local agencies are required to ministerially review second dwelling units. The proposed process incorporates review of a second dwelling unit with an application for building permit.

Options: Not applicable.

Recommendations: Adopt the "Permitting Procedures" section as proposed.

20.03.115 Procedure for approval. Submittal Requirements and Application Processing.

~~Applicants for second dwelling units shall follow the following procedure for approval:~~

~~(A) Step One- Submittal--Application: The application package Applications for a second dwelling unit permit shall be submitted to the Department of Community Development concurrent with the submittal of an application for building permit. In addition to the standard submittal requirements for a building permit, the second dwelling unit application package shall include: accompanied by the required fees, plans, and elevations. showing the proposed second dwelling unit and its relation to the principal dwelling, descriptions of building materials, landscaping and exterior finishes to be used, parking to be provided, and any other information required by the Department to determine whether the proposed second dwelling unit conforms to all requirements of this article.~~

- (1) Plot plan (drawn to scale): Dimension the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.*
- (2) Floor Plans: Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.*
- (3) Elevations: north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed second dwelling unit.*
- (4) Cross Section: Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.*
- (5) Color photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of the photograph.*
- (6) Deed restriction completed as required, signed and ready for recordation.*

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(B) Step Two -- ~~Conformance. Issuance.~~ The Department of Community Development shall ~~issue a second dwelling unit building permit if it determine if the proposed second dwelling unit conforms to the specific standards contained in §20.03.116 Development Standards all requirements of this article.~~ If the proposal conforms, then the Department shall schedule the second unit application on the earliest available Planning Commission consent calendar for approval. Not less than 10 days prior to the Planning Commission meeting at which time the application will be considered, the Department shall notify all owners of property within 300 feet of the subject property that the second unit application has been filed and that it conforms to all requirements of this article and is therefore scheduled for approval by the Planning Commission on the selected date. The Department shall also inform the property owners of their right to object to the proposed approval of the application either in writing or in person at or before the Planning Commission meeting on which the application will be considered on the consent calendar.

— (C) Step Three--Consent Calendar. If the second unit application is not objected to, then the Planning Commission by resolution will approve the conditional use permit. If any objection is received, then the Planning Commission shall not act on the application on the consent calendar but shall instead direct the Department of Community Development to set the matter for a future public hearing on the earliest possible Planning Commission agenda.

— (D) Step Four--Public Hearing (If Necessary). If step four is necessary, the Department of Community Development shall schedule the second unit application for a public hearing before the Planning Commission and shall prepare a written agenda Staff report for the item. All property owners within 300 feet of the subject property shall be notified of the public hearing. After the public hearing, the Planning Commission, prior to approving the conditional use permit, must determine that the proposed second dwelling unit conforms to all requirements of this article.

Discussion: Since the State law is eliminating the local agency's discretionary review¹ authority for second dwelling units, the submittal requirements must be specific and complete in order to perform the ministerial review. The second dwelling unit will be processed with the application for a building permit (also a ministerial function).

Options: Not applicable.

Recommendations: Adopt the "Submittal and Application Processing" section as proposed.

Section 20.03.116 ~~Design and Development Standards.~~

A second dwelling unit permit will only be issued if it complies ~~All second dwelling units shall comply with the following design and development standards:~~

(A) *Setbacks:*

- (1) *Residential Districts: The main dwelling unit setbacks, based on the zoning district in which it is located, shall also apply to the second dwelling unit. No second dwelling unit shall be closer to the main dwelling (on the same lot) than that permitted by the Uniform*

¹ A project that requires exercising judgement or deliberation before a public agency or body. This is distinguished from situations where the agency or body merely determines whether or not the request conforms with applicable statutes, ordinances or regulations.

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Building Code. A second dwelling unit shall not be closer than 10 feet from the main building on the same lot or adjacent lot. A second dwelling unit shall be located within 100 feet of the main dwelling unit.

- (2) *Second Dwelling Unit Setbacks in -PD Districts in effect on or before October 4, 1985, and without specified setbacks identified in a Policy Statement or Development Plan shall maintain a rear setback of 15 feet, an interior side yard setback of 5 feet for a one-story portion and 10 feet for a two-story portion and an exterior side yard setback of 15 feet*

~~Requirements. All yards, building height, distance between buildings, and lot coverage standards of the zone in which the property proposed for a second dwelling unit is located shall apply. In zones where no standards are specified, the Planning Commission shall have the authority to establish reasonable standards for yards, building height, distance between buildings, and lot coverage.~~

Discussion: The Zoning Code went through a significant update in the mid 1980's. During this update, the setbacks for R-1 Districts were enlarged, for example the rear yard setback went from five to 15 feet. The result was to make many residences (which previously complied with the smaller setbacks) nonconforming, principally, residences in the Junior College, West End and Burbank -PD neighborhoods. To remedy the problem, the City added a "grandfather" clause to the Zoning Code that allows the smaller setbacks (i.e., 5 foot rear yard) in these -PD neighborhoods which were in effect on or before the Zoning Code change which occurred on 10/4/1985.

The JC Neighborhood Association is requesting that the setbacks for second dwelling units be the same for both the -PD Districts created prior to 10/4/1985 and the R-1-6 District. With a larger setback, the privacy of existing units will be better preserved. The downside to a larger setback may be that fewer second dwelling units may be constructed due to the difficulties of meeting the larger setbacks.

The requirement for the 100-foot maximum separation between the main dwelling and the second dwelling unit is to insure that the activities within the second dwelling unit do not go unnoticed by the owner of the property. One hundred feet approximates the depth of a standard R-1-6 lot.

Options:

More permissive: Eliminate the proposed Second Dwelling Unit Setbacks in -PD Districts in order to remove obstacles for second dwelling unit development.

More restrictive: Increase setback requirements beyond that which is proposed.

The requirement to construct a second dwelling unit within 100 feet of the main unit will not impact the potential creation of second dwelling units. The distance may be increased, decreased or eliminated by the Planning Commission without impact to the number of units constructed.

Recommendations: Adopt the setback section including the increased setbacks in -PD districts created on or before 10/4/1985.

(B) Unit Size.

- (1) No newly constructed second dwelling unit may have more than one bedroom, nor contain a gross floor area in excess of 700 square feet. *Efficiency units shall not contain less than 150 square feet.*

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- (2) Internal Conversion: A second dwelling unit created by the internal conversion of an existing single family dwelling shall not occupy more than 45 percent of the ~~total~~ *habitable* floor area of the building, ~~including any proposed addition, but,~~ excluding the garage area.

Discussion: State law requires a local agency to include efficiency units in the definition of second dwelling unit. The proposed ordinance includes a minimum square footage consistent with the requirement.

As proposed, only the habitable floor area of an existing building can be considered when calculating the percentage of internal conversion. This eliminates the potential to develop a large duplex-type residence without proper discretionary review. Currently, the code allows proposed additions to be included. If additions were allowed, an existing 1,300 square foot home with a 2,000 square foot addition could potentially result in a second dwelling unit of 1,485 square feet and a main unit of 1,815 square feet.

Options:

More permissive: Allow a higher percentage (than 45%) of the existing residence to be converted to second dwelling unit.

More restrictive: Lower the percentage of unit that may be converted.

Recommendations: Adopt the unit size as proposed.

*(C) **Height:** A second dwelling unit shall not exceed two stories. The maximum building height for a second dwelling unit is 27 feet.*

Discussion: During recent review of a second dwelling unit appeal, located on Sunshine Avenue, the City Council suggested that the allowable height of second dwelling units be reduced to 25 feet to insure that sites do not become dominated visually by the second dwelling unit.

Staff has reviewed the City Council's height suggestion with the building division and determined that 25 feet would be possible in most instances; however, on sloped lots it would be best to extend the height to 27 feet to allow flexibility in roof pitch. It is important to note, that aside from the recent height issue encountered on Sunshine Avenue, height does not generally generate neighborhood concerns.

Given that review will be going from discretionary to ministerial, a reduced building height would certainly lessen any potential issue of visual dominance. Restricting height should not affect the number of second units developed.

Options:

More permissive: Leave building height of 35 feet as is.

More restrictive: Decrease the building height to 27 feet.

Recommendations: Adopt the height section as proposed.

*(D) **Lot Coverage:** A second dwelling unit shall adhere to the lot coverage requirements applicable to the main dwelling unit.*

Discussion: No change is proposed.

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Option:

More permissive: Increase the amount of lot that may be covered by residences.

More restrictive: Decrease the amount of lot that may be covered by residences.

Recommendation: Adopt the lot coverage section as proposed.

(E) Off-Street Parking: The second dwelling unit ~~must be provided with~~ *shall provide* one more off-street parking space than required for a single-family dwelling. This additional parking space may be uncovered, ~~and compact, and tandem~~ *and if located outside within the front yard setback when located in the driveway. If there is no on-street parking directly in front of the lot to be developed with a second dwelling unit, then the additional parking space shall be located outside any setback but may be compact and uncovered.* ~~(The requirement for an additional parking space may be waived by the Planning Commission if it finds that: (1) adequate on-street parking is available adjacent to the property; or (2) on-site parking for the second dwelling unit is not needed.~~

Discussion: According to the State:

"Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required if a finding is made that additional parking is needed to serve the second dwelling unit and is consistent with existing neighborhood standards applicable to the existing neighborhood. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topography or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction."

The parking requirement for second dwelling units is a big contributor in determining the ease at which second dwelling units may be developed. The new ordinance relaxes the standard by allowing parking in the front setback and within the driveway. This will not impact fire and life safety.

A new requirement for parking is proposed that will apply to situations where there is an absence of on-street parking directly in front of the site. The new ordinance requires parking (uncovered or compact) on-site and outside any setback. The new requirement would apply to situations including but not limited to cul-de-sac lots, flag lots and lots fronting streets where parking is not provided.

Options:

More permissive: Allow parking within a setback regardless of available on-street parking.

More restrictive: Require the additional parking space outside any setback regardless of availability of on-street parking. The effect of this stricter requirement would be to reduce the number of second dwelling units constructed.

Recommendation: Adopt the parking section as proposed.

(F) Architectural Compatibility: Design. The second dwelling ~~family residential~~ unit shall ~~be incorporate the same or similar architectural features, building materials and colors as the main dwelling unit or dwellings located on adjacent properties. ; the design of a second dwelling unit must be aesthetically compatible with the existing primary structure and the surrounding neighborhood. Compatibility with the existing primary structure includes coordination of colors, materials, roofing, other architectural features, and landscaping, designed so that the appearance of the site remains that of a single-family residence.~~

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Discussion: The State law allows a local agency to conduct architectural review, traditionally a discretionary/subjective judgement process. It is rather contradictory for the state to provide for architectural review, limited through ministerial process. What this means is that architectural requirements must be stated objectively; the second dwelling either meets the architectural requirements or not. The proposed ordinance, to the extent possible, requires a second dwelling unit to be the same or similar architectural features, colors and materials in order to blend with the surrounding residences or the existing residence on-site.

Options:

More permissive: Eliminate architectural compatibility section. This would allow the use of any residence design that meets building code to be constructed without the use of the same or similar materials, colors, and features. This would not increase the number of second dwelling units, but could decrease the compatibility of structures, especially within historic neighborhoods.

More restrictive: Any requirement applied to this section must be objectively stated, i.e., the unit does or does not meet the criteria. No subjectivity should be inherent. NOTE: it may not be desirable to match the existing on-site single family residence if it isn't the paradigm for residential development.

Recommendation: Adopt the architectural compatibility section as proposed.

G) Privacy: ~~Insofar as possible, any new~~ Any window or door of a 2nd story second dwelling unit shall utilize techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments. ~~entrances, to an attached second unit shall be located on the side or in the rear of the building. The location and orientation of a second unit may not materially reduce the privacy otherwise enjoyed by residents of adjoining properties. The shape and siting of a second dwelling unit, and especially of any portions thereof which exceed one story in height, shall be designed and oriented so as to minimize the blocking of views and direct sunlight from nearby lots and from other residential facilities in the surrounding neighborhood. The Planning Commission must consider, but is not limited to considering, the placement of windows, decks and balconies, landscape screening, and height/number of stories, in determining if privacy will be materially reduced.~~

Discussion: See discussion - Architectural Review.

Options:

More permissive: Eliminate the section and allow second dwelling units to develop without privacy concerns.

More restrictive: Writing objective requirements that protect privacy is extremely difficult. The requirement can't be so restrictive that it makes it impossible to meet building code requirements.

Recommendation: Adopt the privacy section as proposed.

(H) Permanent Foundation: A permanent foundation shall be required for all second dwelling units.

Discussion: No changes have been made.

(I) Existing Development: A single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the second dwelling unit. ~~Subdivision. No subdivision of land or air rights shall be allowed.~~

ITEM NO. 11

Discussion: The City's Subdivision Ordinance establishes the guidelines and regulations for the creation of new lots. Therefore, the statement related to subdivision exclusion has been removed.

(J) Number per Lot: No more than A maximum of one second dwelling unit shall be permitted may be located on any lot.

Discussion: The language has been revised slightly, without any change in meaning.

(K) Occupancy. The property is and will shall be the primary residence of the property owner. The owner may occupy either the primary main dwelling unit or second dwelling unit as their principal residence.

Discussion: The language has been revised slightly, without any change in meaning.

Options:

More permissive: The occupancy requirement could be eliminated with the goal of increasing the number of second dwelling units. This would also increase the number of absentee owners and potential for nuisance.

More restrictive: Not applicable.

Recommendation: Maintain owner occupancy requirement to insure maximum preservation of property and lower potential for nuisance.

Section 20.03.117 Findings for approval:

~~Before granting a conditional use permit for a second dwelling unit, the Planning Commission shall make the following findings:~~

~~(A) The second dwelling unit meets all required standards identified in this article;~~

~~(B) The second dwelling unit is compatible in appearance and character with the primary single family residence and with the surrounding neighborhood;~~

~~(C) Public utilities and services are adequate to serve both dwellings;~~

~~(D) In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Planning Commission may make a finding that reasonable deviation from the stated conditions is necessary to install features that facilitate access and mobility for disabled persons.~~

Discussion: Approval findings are not required for ministerial actions.

Section 20.03.118 117 Deed Restrictions.

Before obtaining a second dwelling unit building permit, the property owner shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

(A) The second dwelling unit shall not be sold separately;

(B) The second dwelling unit is restricted to the *maximum size allowed per the development standards in Section 20.03.116 approved by the conditional use permit allowing the unit;*

ITEM NO. 11

(C) The ~~conditional use permit allowing the~~ second dwelling unit shall be ~~in effect~~ *considered legal* only so long as either the primary residence, or the second dwelling unit, is occupied by the owner of record of the property;

(D) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in *legal action against the property owner*. ~~proceedings to revoke the conditional use permit.~~

Discussion: The language has been revised slightly, without any change in meaning.

2. General Plan

The proposed ordinance will comply with the General Plan Housing Element. The following policy relates specifically to second dwelling units:

H-C-7: Promote development of second units. Discuss this option with residential developers during initial development application meetings.

3. Environmental Review

The Zoning Code Text Amendment is covered by CEQA Statutory Exemption 15282(i) which exempts the adoption of ordinances, pertaining to second dwelling units in a single family or multifamily residential zone, in order to implement the provisions of Sections 65852.2 of the Government Code.

4. Issues

Time Constraints: On September 29, 2002, the governor signed the new law which eliminates the current discretionary review process in favor of a ministerial process. The law states that unless a local agency has their own ordinance adopted by July 1, 2003, any application for second dwelling unit will only be required to meet the minimum standards contained in the new adopted law §65852.2 (b)(1)(A-I). If the City of Santa Rosa wishes to have their own standards in place, the City Council must adopt the second dwelling unit ordinance by May 27, 2003 in order to be in effect on July 1, 2003.

Attachments

- Government Code 65852.2
- Existing Zoning Code Article 6, Second Dwelling Unit
- Proposed Zoning Code Article 6, Second Dwelling Unit
- Declaration of Restrictions
- Planning Commission Resolution
- Letter from JC Neighborhood Association

RECOMMENDATION

The Department of Community Development recommends that the Planning Commission recommend to the City Council, amendment to Article 6 of the Zoning Code, Section 20-03.111 through 20-03.119 titled Second Dwelling Unit.

65852.2. (a) (1) Any local agency may, by ordinance, provide for the creation of second units in single-family and multifamily residential zones. The ordinance may do any of the following:

(A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.

(B) Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. Nothing in this paragraph may be construed to require a local **government** to adopt or amend an ordinance for the creation of second units. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of second units.

(b) (1) When a local agency which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or

detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.

(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building **code** requirements which apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain an existing single-family dwelling.

No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of second units if these provisions are consistent with the limitations of this subdivision.

(5) A second unit which conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.

(d) A local agency may establish minimum and maximum unit size requirements for both attached and detached second units. No minimum or maximum size for a second unit, or size based upon a percentage

of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(f) Fees charged for the construction of second units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of second units.

(h) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) or (c) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Second unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety **Code**.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety **Code**.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources **Code**), except that the local **government** shall not be required to hold public hearings for coastal development permit applications for second units.

Article 6. Second Dwelling Unit***Section 20.03.110E Editor's note to Article 6.**

*Prior ordinance history: Ordinances 2488, 2576, 2768 and

Section 20.03.111 Purpose.

The purpose of this article is to increase the supply of smaller dwelling units and rental housing units by allowing second dwelling units to be developed on certain lots which contain only a single-family dwelling and to establish design and development standards for second dwelling units to ensure that they are compatible with existing neighborhoods.

Section 20.03.112 Definitions.

(A) A second dwelling unit is a small but separate, complete housekeeping unit with kitchen, sleeping, and full bathroom facilities which is part of, an extension to, or on the same lot as a detached single-family dwelling.

(B) A second dwelling unit may be considered a residential use that is consistent with the existing general plan and zoning designation for the lot. Second dwelling units are not "accessory uses" as defined in Article 4.1 of Chapter 20-05.

Section 20.03.113 Location.

(A) A second dwelling unit may be allowed on any lot whose zoning permits residential units and which is either undeveloped or contains only a single-family detached dwelling.

(B) Second dwelling units shall not be allowed where public utilities and services are inadequate.

Section 20.03.114 Conditional use permit.

A conditional use permit approved by the Planning Commission shall be required for all second dwelling units. Second dwelling units approved by conditional use permit prior to this amendment shall be considered legal nonconforming uses.

Section 20.03.115 Procedure for approval.

Applicants for second dwelling units shall follow the following procedure for approval:

(A) Step One--Application. Applications shall be submitted to the Department of Community Development accompanied by the required fees, plans and elevations showing the proposed second dwelling unit and its relation to the principal dwelling, descriptions of building materials, landscaping and exterior finishes to be used, parking to be provided, and any other information required by the Department to determine whether the proposed second dwelling unit conforms to all requirements of this article.

(B) Step Two--Conformance. The Department of Community Development shall determine if the proposed second dwelling unit conforms to all requirements of this article. If the proposal conforms, then the Department shall schedule the second unit application on the earliest available Planning Commission consent calendar for approval. Not less than 10 days prior to the Planning Commission meeting at which time the application will be considered, the Department shall notify all owners of property within 300 feet of the subject property that the second unit application has been filed and that it conforms to all requirements of this article and is therefore scheduled for approval by the Planning Commission on the selected date. The Department shall also inform the property owners of their right to object to the proposed approval of the application either in writing or in person at or before the Planning Commission meeting on which the application will be considered on the consent calendar.

(C) Step Three--Consent Calendar. If the second unit application is not objected to, then the Planning Commission by resolution will approve the conditional use permit. If any objection is received, then the Planning Commission shall not act on the application on the consent calendar but shall instead direct the Department of Community Development to set the matter for a future public hearing on the earliest possible Planning Commission agenda.

(D) Step Four--Public Hearing (If Necessary). If step four is necessary, the Department of Community Development shall schedule the second unit application for a public hearing before the Planning Commission and shall prepare a

written agenda Staff report for the item. All property owners within 300 feet of the subject property shall be notified of the public hearing. After the public hearing, the Planning Commission, prior to approving the conditional use permit, must determine that the proposed second dwelling unit conforms to all requirements of this article.

Section 20.03.116 Design and development standards.

All applications for second dwelling units shall comply with the following design and development standards:

(A) Zoning Requirements. All yards, building height, distance between buildings, and lot coverage standards of the zone in which the property proposed for a second dwelling unit is located shall apply. In zones where no standards are specified, the Planning Commission shall have the authority to establish reasonable standards for yards, building height, distance between buildings, and lot coverage.

(B) Unit Size. No newly constructed second dwelling unit may have more than one bedroom, nor contain a gross floor area in excess of 700 square feet.

(C) Internal Conversion. A second dwelling unit created by the internal conversion of an existing single family dwelling shall not occupy more than 45 percent of the total floor area of the building, including any proposed addition, but excluding the garage area.

(D) Privacy. The location and orientation of a second unit may not materially reduce the privacy otherwise enjoyed by residents of adjoining properties. The Planning Commission must consider, but is not limited to considering, the placement of windows, decks and balconies, landscape screening, and height/number of stories, in determining if privacy will be materially reduced.

(E) Design. The second family residential unit shall be designed so that the appearance of the site remains that of a single-family residence. Insofar as possible, any new entrances to an attached second unit shall be located on the side or in the rear of the building.

The design of a second dwelling unit must be aesthetically compatible with the existing primary structure and the surrounding neighborhood. Compatibility with the existing primary structure includes coordination of colors, materials, roofing, other architectural features, and landscaping.

The shape and siting of a second dwelling unit, and especially of any portions thereof which exceed one story in height, shall be designed and oriented so as to minimize the blocking of views and direct sunlight from nearby lots and from other residential facilities in the surrounding neighborhood.

(F) Off-Street Parking. The second dwelling unit must be provided with one more off-street parking space than required for a single-family dwelling. This additional parking space may be uncovered and compact, and tandem if located outside the front yard setback.

(The requirement for an additional parking space may be waived by the Planning Commission if it finds that: (1) adequate on-street parking is available adjacent to the property; or (2) on-site parking for the second dwelling unit is not needed.

G) Existing Development. A single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the second dwelling unit.

(H) Number per Lot. No more than one second dwelling unit may be located on any lot.

(I) Occupancy. The property is and will be the primary residence of the property owner. The owner may occupy either the primary or second dwelling unit.

(J) Subdivision. No subdivision of land or air rights shall be allowed.

Section 20.03.117 Findings for approval.

Before granting a conditional use permit for a second dwelling unit, the Planning Commission shall make the following findings:

(A) The second dwelling unit meets all required standards identified in this article;

(B) The second dwelling unit is compatible in appearance and character with the primary single family residence and with the surrounding neighborhood;

(C) Public utilities and services are adequate to serve both dwellings;

(D) In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Planning Commission may make a finding that reasonable deviation from the stated conditions is necessary to install features that facilitate access and mobility for disabled persons.

Section 20.03.118 Deed restrictions.

Before obtaining a building permit for a second dwelling unit, the property owner shall file with the County Recorder a declaration or an agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

(A) The second dwelling unit shall not be sold separately;

(B) The second dwelling unit is restricted to the size approved by the conditional use permit allowing the unit;

(C) The conditional use permit allowing the second dwelling unit shall be in effect only so long as either the primary residence, or the second dwelling unit, is occupied by the owner of record of the property;

(D) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in proceedings to revoke the conditional

Article 6

Second Dwelling Unit

20-03.111 Purpose.

The purpose of this article is to comply with amendments made in 2002, to State Law §65852.2 which provides for City's to set standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with existing neighborhoods.

20-03.112 Definitions.

(A) Second Dwelling Unit: Any residential dwelling unit which provides complete independent living facilities on the same parcel as a legal single family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling unit also includes efficiency units and manufactured homes. Second dwelling units are not "accessory uses" as defined in Article 4.1 of Chapter 20-05.

- (1) Efficiency Unit: A separate living space with a minimum floor area of 150 square feet intended for occupancy by no more than two persons which contains partial kitchen and bathroom facilities.
- (2) Manufactured home: A transportable structure which in the traveling mode is 8 feet or more in width and 40 feet or more in length and is a minimum of 320 square feet and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation.
- (3) Neighborhood: An area commonly identified as such in planning documents and among individuals who reside and work within close proximity.

20-03.113 Location.

(A) One second dwelling unit may be located on any residentially zoned lot that principally allows single family dwellings and which is either undeveloped or contains only a legal single-family detached dwelling.

(B) Second dwelling units shall not be allowed where roadways, public utilities and services are inadequate.

(C) Second dwelling units are not required to meet the density requirements of the General Plan, but shall otherwise be consistent with General Plan text and diagrams.

(D) No second dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.

20.03.114 Permitting Procedures.

Any application for second dwelling unit that meets the location and development standards, contained in this code, shall be approved ministerially without discretionary review or public hearing.

20.03.115 Submittal Requirements and Application Processing.

(A) Step One- Submittal- The application package for a second dwelling unit permit shall be submitted to the Department of Community Development concurrent with the submittal of an application for building permit. In addition to the standard submittal requirements for a building permit, the second dwelling unit application package shall include:

- (1) Plot plan (drawn to scale): Dimension the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.
- (2) Floor Plans: Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
- (3) Elevations: north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed second dwelling unit.
- (4) Cross Section: Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
- (5) Color photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of the photograph.
- (6) Deed restriction completed as required, signed and ready for recordation.

(B) Step Two - Issuance. The Department of Community Development shall issue a second dwelling unit building permit if it conforms to the specific standards contained in §20.03.116 Development Standards

Section 20.03.116 Development Standards.

A second dwelling unit permit will only be issued if it complies with the following development standards:

(A) Setbacks:

- (1) Residential Districts: The main dwelling unit setbacks, based on the zoning district in which it is located, shall also apply to the second dwelling unit. No second dwelling unit shall be closer to the main dwelling (on the same lot) than that permitted by the Uniform Building Code. A second dwelling unit shall not be closer than 10 feet from the main building on the same lot or adjacent lot. A second dwelling unit shall be located within 100 feet of the main dwelling unit.
- (2) -PD Districts in effect on or before October 4, 1985, and without specified setbacks identified in a Policy Statement or Development Plan shall maintain a rear setback of 15 feet, an interior side yard setback of 5 feet for a one-story portion and 10 feet for a two-story portion and an exterior side yard setback of 15 feet.

(B) Unit Size.

- (1) No newly constructed second dwelling unit may have more than one bedroom, nor contain a floor area in excess of 700 square feet. Efficiency units shall not contain less than 150 square feet.
- (2) Internal Conversion: A second dwelling unit created by the internal conversion of an existing single family dwelling shall not occupy more than 45 percent of the of the habitable floor area of the building,-excluding the garage area.

(C) Height: A second dwelling unit shall not exceed two stories. The maximum building height for a second dwelling unit is 27 feet.

(D) Lot Coverage: A second dwelling unit shall adhere to the lot coverage requirements applicable to the main dwelling unit.

(E) Off-Street Parking: The second dwelling unit shall provide one more off-street parking space than required for a single-family dwelling. This additional parking space may be uncovered, compact, tandem and located within the front yard setback when located in the driveway. If there is no on-street parking directly in front of the lot to be

developed with a second dwelling unit, then the additional parking space shall be located outside any setback but may be compact and uncovered.

(F) Architectural Compatibility: The second dwelling unit shall incorporate the same or similar architectural features, building materials and colors as the main dwelling unit or dwellings located on adjacent properties.

(G) Privacy: Any window or door of a 2nd story second dwelling unit shall utilize techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments .

(H) Permanent Foundation: A permanent foundation shall be required for all second dwelling units.

(I) Existing Development: A single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the second dwelling unit.

(J) Number per Lot: A maximum of one second dwelling unit shall be permitted on any lot.

(K) Occupancy. The property shall be the primary residence of the property owner. The owner may occupy either the main dwelling unit or second dwelling unit as their principal residence.

Section 20.03.117 Deed Restrictions.

Before obtaining a second dwelling unit building permit, the property owner shall file with the County Recorder a declaration or an agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

(A) The second dwelling unit shall not be sold separately;

(B) The second dwelling unit is restricted to the maximum size allowed per the development standards in Section 20.03.116.

(C) The second dwelling unit shall be considered legal only so long as either the primary residence, or the second dwelling unit, is occupied by the owner of record of the property;

(D) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

DRAFT

RECORDED AT REQUEST OF
CITY OF SANTA ROSA

WHEN RECORDED RETURN TO:
City of Santa Rosa
Director of Community Development
Planning Division
P.O. Box 1678
Santa Rosa, CA 95402-1678

DECLARATION OF RESTRICTIONS OF OCCUPANCY

Declarant(s) _____ and _____ is/are the fee title owner(s) of the property at _____, Santa Rosa, (hereafter the Property) also identified as Sonoma County Assessor's Parcel No. _____. The property is described in the deed to Declarant recorded as Document No. _____ in the Office of the Sonoma County Recorder.

RECITALS

- A. Owners have been issued a permit to construct (or install) a second dwelling unit, as defined in the City of Santa Rosa Zoning Code on the Property which, but for the permit for second dwelling unit, is restricted under the subject Zoning Code to being improved with a single dwelling.
- B. The purpose of this Declaration is to set forth as restrictions on the Property, and as covenants running with the land, those conditions which relate to the use of the two dwelling units on the Property.

NOW, THEREFORE, based on the foregoing, Declarants, declare as follows:

- 1. The second dwelling unit on the Property shall not be sold separately from the principal residence on the Property.
- 2. The second dwelling unit is limited to having one bedroom and is restricted to the size, design and location consistent with the permit for second dwelling unit.
- 3. The owner, or one of the owners, of the fee title of the Property shall occupy either the principal or second dwelling unit.
- 4. The foregoing restrictions may not be terminated or amended without the prior written consent of the Director of Community Development of the City of Santa Rosa.

5. These restrictions shall run with the land and are binding upon the heirs, assigns, and successors in interest of Declarants to the Property.
6. Violation of the restrictions set forth in paragraphs 1 through 4, or any one of them, is a good and sufficient ground to warrant civil action against the Declarant and all other remedies that may be required and/or available to the City of Santa Rosa for a violation of any of these conditions.

Dated: _____ By: _____
Owner

Dated: _____ By: _____
Owner

Attach Notary Certificates (Acknowledgements)

APPROVED:

Dated: _____ By: _____
Director of Community Development
City of Santa Rosa, California

ATTEST: _____

Attn: Maureen Rich, Community Development Department
Planning Commissioners for the City of Santa Rosa
Santa Rosa, California
February 27, 2003

Dear Ms. Rich:

We are writing as concerned citizens regarding the proposed city guidelines to be used for the implementation of AB 1866 that you are submitting to the Planning Commissioners for the March 13, 2003 Public Hearing.

At Section 65852.2 (B) of AB 1866 local agencies are by ordinance allowed to:

“impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards...”

At issue is the interplay of this new law and the provisions of Santa Rosa Zoning Code Section 20-03.717 (B) which states, in part, the following:

“The following setback regulations shall apply to the R-1-PD districts which do not contain specific setback requirements within the approved policy statements or preliminary development plans and which were adopted and in effect on October 4, 1985. Setbacks for main buildings and accessory buildings:

- (1) Front yard: 15 feet...
- (2) Side yard: five feet...
- (3) Rear yard: five feet...”

It is stressed that the city's adoption of these reduced yard setback zoning ordinance standards for R-1-PD Districts are understood to have occurred at a time when the very concept of second dwelling units did not even exist and could never have been intended to apply to second dwelling units as the city's second dwelling unit ordinance was not adopted until 1993.

Since much of the Junior College neighborhood was established as R-1-PD, it is an area peculiarly affected by the reduced yard standards contained within Section 20-03.717 (B) in that the typical 5 foot side and 15 foot rear yard standards found in all other R1 Zoning Districts throughout the city are not applied. Our specific concern is that if the minimum five foot side and rear yard setbacks mentioned above are still in effect on July 1, 2003, the date AB 1866 becomes effective, the Junior College neighborhood would be subject to new one and two story units being constructed just five feet from any rear or side yard property line without the benefit of any discretionary review by staff or the Planning Commission.

PROPOSAL

Since the underlying zoning for the Junior College neighborhood, as well as other R-1-PD districts throughout the city, is the R-1 Base Zoning District, we propose an amendment to Zoning Code Section 20-03.717 (B) requiring that all new second dwelling units adhere to the normal and uniformly applied front, side and rear yard setbacks required in the R-1, Single Family Zoning District (Section 20-03.096). These standards are as follows:

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

MAR 04 2003

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Minimum Front Yard: 15 feet
Minimum Rear Yard: 15 feet
Minimum Interior Side Yard: 5 feet (One story)
10 feet (Two story)
Minimum Exterior: 15 feet (One and Two story)

We also feel that the privacy standards contained within the current Santa Rosa Zoning Code Section 20-03.116 (D) Privacy should also be completely included with the additional requirement to encourage that entryways should be placed towards the interior of the lot and/or facing the primary dwelling unit as opposed to the neighbors on any boundary.

Thank you for your consideration of these suggestions.

Appie Garrett, J.C. Neighborhood Assoc. and
McDonald Historic District

Sally Mullen, J.C. Neighborhood Assoc.

Susan Curry, Junior College
Neighborhood Association

Glance L. Burton, J.C. Neighborhood Association

Jean M. Reed - Junior College Neighborhood
Association

Janne M. Sekhon - Junior College Neighborhood Assoc.

Karen Membrilla - J.C. Neighborhood Assoc.

Kathryn Learned J.C. Neighborhood Association

Article 6 - Second Dwelling Unit

20-03.111 Purpose.

The purpose of this article is to comply with amendments made in 2002, to State Law §65852.2 which provides for City's to set standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with *the existing neighborhood. It is not the intent of this ordinance to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions.*

20-03.112 Definitions.

(A) Second Dwelling Unit: Any residential dwelling unit which provides complete independent living facilities on the same parcel as a legal single family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling unit also includes efficiency units and manufactured homes. Second dwelling units are not "accessory uses" as defined in Article 4.1 of Chapter 20-05.

- (1) Efficiency Unit: A separate living space with a minimum floor area of 150 square feet intended for occupancy by no more than two persons which contains partial kitchen and bathroom facilities. *For the purpose of this section, efficiency unit has the same meaning as Section 17958.1 of the Health and Safety Code.*
- (2) Manufactured home: A transportable structure which in the traveling mode is 8 feet or more in width and 40 feet or more in length and is a minimum of 320 square feet and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation. *For the purpose of this section, manufactured home has the same meaning as Section 18007 of the Health and Safety Code.*
- (3) Neighborhood: An area commonly identified as such in planning documents and among individuals who reside and work within close proximity.

20-03.113 Location.

(A) One second dwelling unit may be located on any residentially zoned lot that principally allow single family dwellings and which is either undeveloped or contains only a legal single-family detached dwelling.

(B) Second dwelling units shall not be allowed where roadways, public utilities and services are inadequate.

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(C) Second dwelling units are not required to meet the density requirements of the General Plan, but shall otherwise be consistent with General Plan text and diagrams.

(D) No second dwelling unit may be approved if located on, or adjacent to, real property that is listed in the California Register of Historic Places.

20.03.114 Permitting Procedures.

Any application for second dwelling unit that meets the location and development standards, contained in this code, shall be approved ministerially without discretionary review or public hearing.

20.03.115 Submittal Requirements and Application Processing.

(A) Step One- Submittal- The application package for a second dwelling unit permit shall be submitted to the Department of Community Development concurrent with the submittal of an application for building permit. In addition to the standard submittal requirements for a building permit, the second dwelling unit application package shall include:

- (1) Plot plan (drawn to scale): Dimension the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.
- (2) Floor Plans: Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
- (3) Elevations: north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed second dwelling unit.
- (4) Cross Section: Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
- (5) Color photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of the photograph.

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(6) Deed restriction completed as required, signed and ready for recordation.

(B) Step Two -- Issuance. The Department of Community Development shall issue a second dwelling unit building permit if it conforms to the specific standards contained in §20.03.116 Development Standards

Section 20.03.116 Development Standards.

A second dwelling unit permit will only be issued if it complies with the following development standards:

(A) Setbacks:

- (1) Residential Districts: The main dwelling unit setbacks, based on the zoning district in which it is located, shall also apply to the second dwelling unit. No second dwelling unit shall be closer to the main dwelling (on the same lot) than that permitted by the Uniform Building Code. A second dwelling unit shall not be closer than 10 feet to a main building on an adjacent lot. A second dwelling unit shall be located within 100 feet of the main dwelling unit.
- (2) Second Dwelling Unit Setbacks in -PD Districts in effect on or before October 4, 1985, and without specified setbacks identified in a Policy Statement or Development Plan shall maintain a rear setback of 15 feet, an interior side yard setback of 5 feet for a one-story portion and 10 feet for a two-story portion and an exterior side yard setback of 15 feet

(B) Unit Size.

- (1) No newly constructed second dwelling unit may have more than one bedroom, nor contain a floor area in excess of 700 square feet. Efficiency units shall not contain less than 150 square feet.
- (2) Internal Conversion: A second dwelling unit created by the internal conversion of an existing single family dwelling shall not occupy more than 45 percent of the habitable floor area of the building, excluding the garage area.

(C) **Height:** A second dwelling unit shall not exceed two stories. The maximum building height for a second dwelling unit is 27 feet.

(D) **Lot Coverage:** A second dwelling unit shall adhere to the lot coverage requirements applicable to the main dwelling unit.

(E) **Off-Street Parking:** The second dwelling unit shall provide one more off-street parking space than required for a single-family dwelling. This additional parking space may be uncovered, compact, tandem and located within the front yard setback

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when located in the driveway. If there is no on-street parking directly in front of the lot to be developed with a second dwelling unit, then the additional parking space shall be located outside any setback but may be compact and uncovered.

(F) **Architectural Compatibility:** The second dwelling unit shall incorporate the same or similar architectural features, building materials and colors as the main dwelling unit or *compatible* dwellings located on adjacent properties.

G) **Privacy:** Any window or door of a 2nd story second dwelling unit shall utilize techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments.

(H) **Permanent Foundation:** A permanent foundation shall be required for all second dwelling units.

(I) **Existing Development:** A single-family dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the second dwelling unit.

(J) **Number per Lot:** A maximum of one second dwelling unit shall be permitted on any lot.

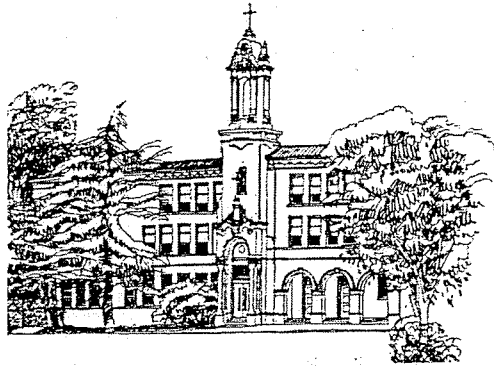
(K) **Occupancy.** The property shall be the primary residence of the property owner. The owner may occupy either the main dwelling unit or second dwelling unit as their principal residence.

Section 20.03.117 Deed Restrictions.

Before obtaining a second dwelling unit building permit, the property owner shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

- (A) The second dwelling unit shall not be sold separately;
- (B) The second dwelling unit is restricted to the maximum size allowed per the development standards in Section 20.03.116
- (C) The second dwelling unit shall be considered legal only so long as either the primary residence, or the second dwelling unit, is occupied by the owner of record of the property;
- (D) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

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March 11, 2003

Maureen Rich
Dept. of Community Development
Room 3
100 Santa Rosa Ave.
Santa Rosa, CA 95401

RE: 2nd Dwelling Units – 3/13 Public Hearing

In an effort to protect all historic districts in Santa Rosa, our neighborhood would like to provide the following feedback to the information we've received on the application for a zoning code amendment to Article 6 – 2nd Dwelling Unit as a result of state law AB1866:

Item #20-03.111 Purpose.

Page 4.

Elaborate on "compatible with existing neighborhoods". Would it be possible to state *neighborhood* (singular) instead of *neighborhoods* (plural) or use the term "surrounding residences" as listed on page 11, paragraph one, to better restrict and define what the second dwelling can look like?

#20-03.113 Location.

Page 5.

Support Option B - More restrictive. "Require that there be adequate roadways AND sidewalks."
Support Option D - More restrictive. "Consider increasing the distance of second dwelling to a historically listed property..."

#20.03.115 Submittal Requirements and Application Processing.

Page 6.

Are there any opportunities to enhance/elaborate on (3) Elevations?

Page 7.

"Department shall notify all owners of property within 300 feet of the subject property that the second unit application has been filed."

Don't delete. Ensures neighbors are aware the project has been submitted to the City for review.
Add: "and any Neighborhood Association (if on file with City for that neighborhood)" after words "300 feet". It can always be explained in the letter that there will be no opportunity for public input based on state law.

#20.03.116 Development Standards

Page 9.

(C) Height: Options:

More restrictive: Decrease the building height to 27 feet.

Page. 10.

F. Architectural Compatibility.

More restrictive. Is there any way to elaborate on this with objective terms to better protect the historic districts?

G. Adopt the privacy section as proposed.

Page 12.

(K) Occupancy.

Maintain owner occupancy requirement...

Thank you for requesting and considering our comments.

Denise Hill

St. Rose Neighborhood Assoc.

317 Tenth St.

Santa Rosa, CA 95401

(707) 544-5713

March 11, 2003

Maureen Rich
Dept. of Community Development
Room 3
100 Santa Rosa Ave.
Santa Rosa, CA 95401

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95407

MAR 13 2003

DEPARTMENT OF
COMMUNITY DEVELOPMENT

RE: 2nd Dwelling Units – 3/13 Public Hearing

Dear Ms. Rich:

My name is Dan Flock, I live at 629 Tupper Street and I am a resident of the Burbank Gardens Neighborhood. I'd like to underscore and elaborate upon the points outlined by Denise Hill of the Saint Rose Neighborhood in their letter to you on this topic :

Item #20-03.111 Purpose, Page 4.

I cannot overestimate the importance of "**neighborhood**" being singular in this item. Each of Santa Rosa's neighborhoods, historic or contemporary, has a distinct feel and is representative of different styles of development and architecture. To borrow and mix styles among all existing neighborhoods would gradually undermine the concept of compatibility, eventually producing scores of homogenous neighborhoods with little distinction between them.

#20-03.113 Location, Page 5.

I would suggest item B read: "**Require that there be adequate roadways and sidewalks...**" Not specifically stating this infrastructure item will allow increased pedestrian flow in neighborhoods, without requiring the elements that make that increased use safe.

I'm concerned with the implementation of item D, in that it does not contemplate *National Register Landmarks*. I understand that local landmarks and preservation districts are intentionally not being considered, but I believe *National Register Landmarks* have an elevated status and have been excluded by oversight. I believe this could cause problems for the city down the road, and I do not want to see that happen, so I'd like to point it out now.

#20.03.115 Submittal Requirements and Application Processing.

On Page 7, on deleted item (D) Step Four:

"Department shall notify all owners of property within 300 feet of the subject property that the second unit application has been filed."

I urge you to consider keeping the notice requirements intact, but stating in the notice that State law precludes a public hearing. This notice may be unpopular, but it will be far less unpopular than waking up to construction noise as your first notice of a project.

Additionally, it will save considerable staff time, resources and money if residents don't start calling community development to discuss why they were left out as soon as the construction begins. Instead, please consider and use this mechanism as an opportunity to inform them of the new law, and to save staff from repeatedly having to field these questions from angry citizens.

As it's a common practice at present, and ties in with the City objectives of working with known neighborhood groups, please add:

"and any Neighborhood Association on file with Community Development which may represent the affected neighborhood"

after **"subject property"**.

#20.03.116 Development Standards, Page 9.

(C) Height: Options:

4c. Please adopt the height of 27 feet as proposed. Though it is noted height has not generally been expressed as an issue, this is a new experiment and it's best to temper the results until the impacts can be better gauged.

Page. 10.

F. Architectural Compatibility.

4i. **"The second dwelling unit shall incorporate the same or similar architectural features , building materials, and colors as the main dwelling unit or compatible dwellings located on adjacent properties"**

Please avoid imitating incompatible adjacent structures. Adding the underlined "compatibility" above should allow for design flexibility, but should preclude using inferior materials which may have been used on adjacent properties.

G. Please adopt the privacy section as proposed.

Page 12.

(K) Occupancy.

Please maintain owner occupancy requirement, and explore options for better enforcing this provision.

Thank you for your thoughtful consideration of these changes.

Sincerely,
Dan Flock

March 12, 2003

To: Santa Rosa Planning Commission

From: Don Dakan, 1209 Stewart St., Santa Rosa *DDW*

Re: Item #11 on 3/13/03 Agenda: Zoning Code Amendment 2nd Dwelling Units

I would like to offer a few comments regarding the proposed revision to the City's 2nd unit ordinance. First let me say that I support the general policy of encouraging 2nd units to alleviate housing shortages and to help provide more affordable units. I hope my comments are helpful.

SEE

4e.

1. Nothing in the revised ordinance should cause or facilitate a detrimental impact on the environment as defined by CEQA and local policy. Otherwise policies on creek setbacks, heritage trees, endangered species, historic preservation, noise, traffic, etc. would be negated. I believe that all these concerns can be objectively defined.

4f.

2. Second units should be occupied by no more than three persons.

10-03.111(A)3.

3. Second units not allowed if the existing primary dwelling is either illegal or non-conforming. Many older neighborhoods are already impacted.

4g.

4. Floor area of a second unit should not exceed 30% of the floor area of the primary residence, but in no case exceed 700 square feet.

4c

5. The height of a detached 2nd unit should not exceed the height of the primary residence and in no case be over 25 feet in height.

4d

6. If proposed 2nd unit is in or adjacent to a City designated historic neighborhood, or next to a City designated landmark, the 2nd unit must comply with City historic design guidelines. I believe these guidelines can be made sufficiently objective to meet State requirements for a ministerial process.

4h.

7. There should not be parking in setbacks, other than on existing paved driveways. Most older neighborhoods have single lane driveways of 10 ft. or less width. I would not like to see two, three and four lane driveways basically turning front yards into parking lots.

4h.

8. We should be realistic and recognize that tandem parking is unenforceable and that the typical result is more on-street parking. Many older neighborhoods are already heavily impacted by on-street parking, particularly where there is a mix of single family homes and apartments.

4j.

9. Single family condominium units should not be permitted to have 2nd units. These sites are already maxed out in terms of density and parking.

4l.

10. I am concerned that the City has no information, that I am aware of, on the number of legal or illegal existing 2nd units and the impact on neighborhoods. Some older neighborhoods are already disproportionally impacted.

4l.

11. I find the concept of allowing 2nd units within an existing single family structure, creating a duplex, to be a circumvention of single family zoning. This needs to be very tightly regulated.

4k

12. Second units should not be used for home business purposes under any circumstances.

l.

13. The City should explicitly recognize in the ordinance that existing or future deed restrictions on individual properties, neighborhoods or subdivisions may prohibit 2nd units.